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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,850	10/15/2003	Henri-Charles Deborde	790_019	8438

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PO BOX 7068
SYRACUSE, NY 13261-7068

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/685,850

Applicant(s)

DEBORDE ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Status of Application

1. Applicant's amendment, filed August 3, 2007, has been entered in the application. Claims 1 and 4-10 are pending, with claims 7-10 newly added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fagot et al. (FR 2,720,288, cited previously) in view of Wolf (US 6,290,249, cited previously). Fagot et al. teach a gliding board (figs. 22-31) having a gliding surface (6) terminating in at least one upwardly raised front end (4), comprising a longitudinally symmetrical arrangement, the end having a peripheral zone (14) and relatively thicker central (7) zone, the peripheral zone extending from the ski sides to an inflection point (e.g., intersection of 13, 14), the upper face of the peripheral zone being substantially parallel to the gliding surface (see figures 26, 27), the width of the peripheral zone continuously increasing from a starting point (proximate figure legend, figure 22) to the highest point of the end, the discontinuity having a vertex at its highest point (front of 4) positioned at substantially a center longitudinal position of the board. Fagot et al. anticipate the use of different shapes at the tip end of the board, including at least a blunt transition (e.g., figure 1). The reference to Fagot et al., however, fails to explicitly teach the discontinuity as having a smooth arc shape. Wolf teaches that it is well known to provide a gliding board with a peripheral zone (outward of 48, figure 7, or outward of 56 or 156 in figures 9, 10) defined with respect to a central zone (e.g., 14, 114) by a discontinuity, wherein the discontinuity has the shape of a smooth arc from one lateral side to another. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the discontinuity separating the central and peripheral zones of the board taught by Fagot as a smooth arc, as taught by Wolf, in place of a two-piece

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arc (e.g., Fagot at figures 22-31) for the purpose of adjusting the response of the board at the tip end.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fagot et al. in view of Wolf and Emig (US 5,788,259, cited previously). The reference to Fagot et al. as modified by Wolf is discussed above and fails to teach the provision of edges having an interruption at an intermediate point within the end, and the width of the peripheral zone being more than 5mm at that point. Emig teaches a ski having a peripheral zone and a central zone, further including edges (6, 7) which are interrupted at a position in the front region of the ski proximate a portion of the combined peripheral and central zones (see figure 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the ski taught by Fagot et al. as modified by Wolf with edges as taught by Emig for the purpose of enhancing the turning and guiding capabilities of the ski. As regards the peripheral zone width at the interruptions, when general conditions are disclosed in the prior art, it is not deemed to be beyond the skill of the ordinary practitioner to adjust the degree of the condition to optimize an operative function or adjust a characteristic. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the width of the peripheral zone at the region of the end (i.e., interruption) of the guide edges at an amount greater than 5 mm in order to increase the flexibility of the board edges (compared to the flexibility of the board at the central zone).

5. Claims 1, 5-7, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrus et al. (US PGPub 2001/0022439). Andrus et al. teach a gliding board (10) having a gliding surface (34) and a front tip end, wherein the end is provided with a peripheral zone (proximate 38) and a central zone (proximate 24) wherein the peripheral zone extends from the sides of the end towards the central zone, the peripheral zone having a thickness less than the central zone and being parallel to the gliding surface (see figure 3), the intersection between the top of the central and peripheral zones being characterized by a discontinuity (figure 3), the arrangement forming a smooth arc (see tip end, figure 2) and wherein the width of the peripheral zone increases (compare sides just rearwardly of the tip with the tip end in a forward

portion), the arc vertex being formed at a forward most end of the tip, the central zone maintaining a substantial thickness through the curve of the arc, the arrangement being laterally symmetrical, the gliding board further including edges (36). The reference to Andrus et al. fails to explicitly teach the front tip end as including an upward slope. The provision of an upward slope on a gliding board front end is notoriously old and well known in the art and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the front tip end of the gliding board taught by Andrus et al. with an upwardly sloped front tip (e. g., with the forward-most end thereof having a greatest height above a gliding surface and resulting in the peripheral and central zones having an upward slope to a forward-most end), for the purpose of assisting the board in the ease of travel over a compressible gliding surface.

6. Claims 4 and 8 are rejected under 35 USC § 103(a) as being unpatentable over Andrus et al. in view of Emig (5,788,259, cited previously). The reference to Andrus et al. is discussed above and fails to teach the provision of the edges as having an interruption at an intermediate point within the end, and the width of the peripheral zone being more than 5mm at that point. Emig teaches a ski having a peripheral zone and a central zone, further including edges (6, 7) which are interrupted at a position in the front region of the ski proximate a portion of the combined peripheral and central zones (see figure 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the edges of the gliding board taught by Andrus et al., with the arrangement as taught by Emig for the purpose of enhancing the turning and guiding capabilities of the ski. As regards the peripheral zone width at the interruptions, when general conditions are disclosed in the prior art, it is not deemed to be beyond the skill of the ordinary practitioner to adjust the degree of the condition to optimize an operative function or adjust a characteristic. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the width of the peripheral zone at the region of the end (i.e., interruption) of the guide edges at an amount greater than 5 mm in order to increase the flexibility of the board edges (compared to the flexibility of the board at the central zone).

Response to Comments

7. Applicant's comments, filed with the amendment, have been carefully considered. As regards the rejections previously set forth as regards claims 1 and 4-6, applicant's comments are noted but not persuasive for the reasons set forth below. Applicant has argued that the shape taught by Wolf is not associated with a structural feature and cannot be used to adjust the board response. The examiner does not agree: the element placed on Wolf is physically connected with the board and constitutes a structural portion. Initially, the examiner notes that unless the element has no measurable physical properties, it will have an effect on the behavior of the board as will its shape, further, applicant should note that the combination relied upon has not suggested that the element taught by Wolf be somehow bodily incorporated into the ski of Fagot, rather that it would be obvious to modify the shape of the front termination already taught by Fagot as being a two-piece arc, to be a smooth (e.g., single segment) arc.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference (and in this instance, such an incorporation has not even been suggested by the examiner); nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicant may desire to note that Fagot anticipates that the forward termination of the central zone may take on a number of different configurations (see figures 4, 14, 24, 34) including both pointed and blunt front ends, and as such, the reference to Fagot provides an implicit teaching that (1) multiple configurations are envisioned as part of the inventive concept, and (2) those configurations may take on markedly different arrangements (i.e., a blunt termination versus a pointed one).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

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hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant's comments directed to the new claims added are noted, and the examiner notes that the combination of Fagot and Wolf relied upon to meet claim 1 would not be clearly capable of meeting the limitations recited in new claim 7. Note the reference to Andrus et al, now applied in response to applicant's new claims.

Conclusion

8. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

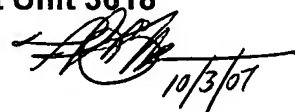
A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618



10/3/07